

**United States District Court****for the****Eastern District of Washington**FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON**Jul 29, 2019**

SEAN F. MCAVOY, CLERK

**Revised Petition for Warrant or Summons for Offender Under Supervision**

Name of Offender: Phillip Smith

Case Number: 0980 2:02CR02168-EFS-1

Address of Offender: , Washington 98951

Name of Sentencing Judicial Officer: The Honorable Edward F. Shea, Senior U.S. District Judge

Date of Original Sentence: July 2, 2003

Original Offense: Crime on an Indian Reservation, Aggravated Sexual abuse, 18 U.S.C. § 2241(a)

Original Sentence: Prison - 121 months      Type of Supervision: Supervised Release  
TSR - 60 monthsRevocation Sentence: Prison - 4 months  
July 11, 2012      TSR - 56 months

Asst. U.S. Attorney: Meghan McCalla      Date Supervision Commenced: August 14, 2014

Defense Attorney: Alex B. Hernandez, III      Date Supervision Expires: June 18, 2017

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**PETITIONING THE COURT**

**Please Note:** The original petition was filed with the Court on April 29, 2016. The purpose of this petition is to reflect updated information in regard to violation number 1 and guideline provisions.

The probation officer believes that the offender has violated the following conditions of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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1

**Mandatory Condition #2:** The defendant shall not commit another federal, state, or local crime.

**Supporting Evidence:** Mr. Smith was charged with second degree assault, Yakima County Superior Court casue number 16-1-00805-0, on March 22, 2016.

According the Yakima County Sheriff's Office narrative report, Mr. Smith is alleged to have raped a child multiple times during the past 2 years. The child was 10 years old at the time and the sexual abuse continued until she was 12 years old. The report notes the child was anally raped and forced to perform oral sex numerous times. It is also alleged that Mr. Smith took pictures while he was raping the child. The police report also notes that Mr. Smith physically and verbally abused the victim's brothers as well. Mr. Smith also made physical threats if they were to report these incidents to their mother. The police report will be made available for the Court's review at the time of the revocation hearing.

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According to the Yakima County Superior Court docket, Mr. Smith was originally charged with first degree rape of child. On July 9, 2019, Mr. Smith was found guilty by a plea of second degree assault. He was sentenced to 12 months custody.

- 2      **Standard Condition #2:** The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first 5 days of each month.

**Supporting Evidence:** Mr. Smith failed to submit his monthly report form within the first 5 days of the month of April 2016.

Mr. Smith had been instructed to report to the U.S. Probation Office within the first 5 days of each month and submit his monthly report form. On April 11, 2016, a late report notice along with a monthly report form was sent via U.S. mail to Mr. Smith reminding him of his reporting requirement. On April 26, 2016, this officer spoke with Mr. Smith's ex-girlfriend and left him a message directing him to report to the probation office the following day. Mr. Smith submitted his monthly report 3 weeks late, on April 27, 2016.

- 3      **Special Condition #17:** You shall live at an approved residence, and shall not change your living situation without advance approval of the supervising probation officer.

**Supporting Evidence:** Mr. Smith failed to obtain prior approval from his probation officer prior to changing his residence as of April 27, 2016.

According to Mr. Smith's monthly report form dated April 27, 2016, he moved from his residence on March 24, 2016. Mr. Smith did not obtain advance approval from his probation officer prior to changing his residence.

- 4      **Special Condition #19:** You shall register as a sex offender, according to the laws of the state in which you reside, are employed, or are attending school. You shall provide verification of compliance with this requirement to the supervising probation officer.

**Supporting Evidence:** Mr. Smith failed to register as a sex offender with the State of Washington within 3 business days as required by RCW 9A.44.130, upon changing his residence on or about March 24, 2016.

Mr. Smith reported he changed his residence on March 24, 2016. However, according to the Yakima County Sheriffs Office, Mr. Smith registered a change of residence on April 13, 2016. Mr. Smith is required to register as a sex offender with the State of Washington within 3 business days of changing his residence. However, Mr. Smith failed to register a change in residence within 3 business days as required.

The U.S. Probation Office respectfully recommends the Court accept the revised petition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on:      July 26, 2019

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s/Jose Zepeda

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Jose Zepeda  
U.S. Probation Officer

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THE COURT ORDERS

- ☒ No Action  
☐ The Issuance of a Warrant  
☐ The Issuance of a Summons  
☐ Other



Signature of Judicial Officer

7/29/2019

Date